

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS**

**April 19, 2010 – 7:00 PM**

**J. NEWTON COHEN, SR. ROOM**

**J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING**  
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Present: Carl Ford, Chairman  
Chad Mitchell, Vice-Chairman  
Jon Barber, Member  
Raymond Coltrain, Member  
Tina Hall, Member

County Manager Gary Page, Clerk to the Board Carolyn Athey, County Attorney Jay Dees and Finance Director Leslie Heidrick were present.

Chairman Ford convened the meeting at 7:00 pm.

Commissioner Hall provided the Invocation and Boy Scout Troop 476 from St. Mark's Lutheran Church led the Pledge of Allegiance.

**CONSIDER APPROVAL OF THE MINUTES**

Commissioner Mitchell moved, Commissioner Coltrain seconded and the vote to approve the minutes of the April 5, 2010 and April 8, 2010 Commission Meetings passed unanimously.

**CONSIDER ADDITIONS TO THE AGENDA**

Commissioner Barber moved to switch agenda items #2 and #3 in the order of discussion. The motion was seconded by Commissioner Mitchell and passed unanimously.

**CONSIDER DELETIONS FROM THE AGENDA**

There were no deletions from the agenda.

**CONSIDER APPROVAL OF THE AGENDA**

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to approve the agenda passed unanimously.

## **1. CONSIDER APPROVAL OF CONSENT AGENDA**

Commissioner Coltrain moved approval of the Consent Agenda. The motion was seconded by Commissioner Barber and passed unanimously.

The Consent Agenda consisted of the following:

### **A. Resolution Delegating Authority to Approve Public Pyrotechnics Exhibitions Conducted Within Corporate Limits to Municipal Governing Bodies**

WHEREAS, in accordance with NCGS 14-413 (a), the Rowan County Board of Commissioners approves the public exhibition of pyrotechnics in Rowan County; and

WHEREAS, Article (a1) of NCGS 14-413 provides the Board of Commissioners authority to authorize the governing body of any city in the county the ability to approve pursuant to the provisions of this Article, pyrotechnics to be exhibited, used, or discharged within the corporate limits of the city for use in connection with public exhibitions; and

THEREFORE BE IT RESOLVED, that the Rowan County Board of Commissioners does hereby delegate the authority for the governing bodies of all municipalities in Rowan County to approve public exhibitions of pyrotechnics to be exhibited, used, or discharged within the corporate limits of each respective city within Rowan County, pursuant to the provisions of NCGS 14-413 (a1). The fire code official of the local jurisdiction must inspect the display site and ensure the display can be performed in full compliance with the NFPA standards and issue appropriate permit(s) where applicable.

BE IT FURTHER RESOLVED, that the Rowan County Board of Commissioners will hereby continue to approve pyrotechnic exhibitions conducted outside municipal jurisdictions.

BE IT FURTHER RESOLVED, that this resolution shall remain in effect until withdrawn by the Rowan County Board of Commissioners.

### **B. Proclamation for Law Enforcement Week May 10-16, 2010**

WHEREAS, the Congress and President of the United States have designated May 10 through May 16, 2010 as LAW ENFORCEMENT WEEK; and

WHEREAS, the members of all the law enforcements agencies in Rowan County play an essential role in safeguarding the rights and freedoms of all our citizens; and

WHEREAS, it is important that all citizens know and understand the duties, responsibilities, hazards and sacrifices of their law enforcement agencies; and

WHEREAS, members of our law enforcement agencies recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and

WHEREAS, law enforcement officers, past and present, have faithfully and loyally rendered a dedicated service to this County and have established for themselves an enviable and enduring reputation to preserving the rights and security of all citizens; and

THEREFORE BE IT PROCLAIMED that the Rowan County Board of Commissioners does hereby proclaim May 10-16, 2010 as LAW ENFORCEMENT WEEK.

NOW, THEREFORE BE IT FURTHER PROCLAIMED that the Rowan County Board of Commissioners calls upon all citizens of Rowan County to observe May 13, 2009 as PEACE OFFICERS' MEMORIAL DAY in honor of those law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes.

C. Proclamation to Establish May as Shield-A-Badge with Prayer Awareness Month

WHEREAS, the Shield-A-Badge With Prayer program works to affirm the commitment of Rowan County Law Enforcement Officers and encourages citizen awareness and appreciation for these officers; and

WHEREAS, the program invites citizens to commit to pray for an officer every day for one year and to send birthday cards and notes of thanks to these officers; and

WHEREAS, through the generosity of individuals, businesses and churches that have donated services and fundraisers, 10,000 Bibles, 2,000 Shield-A-Badge Bible Promise Books and 9,000 New Testaments have been purchased to be given away; and

WHEREAS, the Shield-A-Badge With Prayer program began in Rowan County, by Chaplain Michael Taylor and has begun to expand statewide, reaching out to other counties, municipalities, colleges, hospitals, correctional facilities, 911 communicators, probations officers and animal control officers; state highway patrol troopers; fire departments; and

WHEREAS, through the dedication and travels of Chaplain Taylor, counties from across the state are receiving encouragement and training for chaplains.

NOW, THEREFORE BE IT PROCLAIMED that the Rowan County Board of Commissioners does hereby establish the month of May as Shield-A-Badge With Prayer Awareness Month.

**2. PUBLIC COMMENT PERIOD**

(Agenda items #2 and #3 were switched in the order of discussion).

Chairman Ford opened the Public Comment Period to entertain comments from any citizens wishing to address the Board. The following individuals came forward:

- Larry Wright praised Sheriff Auten for not requesting a budget increase due to the tough economic times. Mr. Wright said the Board of Education (BOE) had requested a 10% budget increase and that he felt the BOE had not done a good job in justifying its administration staff. Mr. Wright asked the Commissioners to consider zero based budgeting.
- Robert Arthur asked the Board to consider an ordinance regarding discharge of firearms on residential property. Mr. Arthur said his neighbor was in attendance and had a sample ordinance from Cabarrus County. Mr. Arthur provided the Board with the request in writing.
  - Dwight Overcash said Rowan County was growing and becoming more of a suburban type county. Mr. Overcash said the time had come to consider an ordinance regarding the discharge of firearms in residential areas.

With no one else wishing to address the Board, Chairman Ford closed the Public Comment Period.

### **3. RECOGNITION OF SALISBURY HIGH SCHOOL VARSITY GIRLS BASKETBALL TEAM**

(Agenda items #2 and #3 were switched in the order of discussion).

Chairman Ford read a Proclamation honoring the Salisbury High School Varsity Girls Basketball Team. The reading was followed by a round of applause and a standing ovation.

Chairman Ford presented the team and coaching staff with the Proclamation, which read as follows:

WHEREAS, the Salisbury High School Varsity Girls Basketball Team, under Coach Andrew Mitchell and Staff, is to be recognized and honored for their outstanding 2009-2010 basketball season; and

WHEREAS, by their extraordinary efforts, this dynamic team has won the Sectional and Western Regional Conference titles and progressed to achieving the North Carolina 2A State Championship and ending the season with an amazing record of 29-0; and

WHEREAS, the excellent performance, dedication and commitment of these young Rowan County women, along with their coaching staff, have proven to be a source of admiration and inspiration to the citizens of Rowan County; and

NOW, THEREFORE BE IT PROCLAIMED, that the Rowan County Board of Commissioners does hereby honor the Salisbury High School Varsity Girls Basketball Team and Coaching Staff for their outstanding achievements and to commend them for their display of sportsmanship and leadership for Rowan County.

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to approve the Proclamation Honoring the Salisbury High School 2010 Varsity Girls Basketball Team passed unanimously.

### **4. PUBLIC HEARING TO CONSIDER REQUEST FOR NO WAKE ZONE FOR ROWAN SHRINE CLUB**

Chairman Ford read the following excerpt from the *Resolution to Establish No Wake Zone in Vicinity of Rowan Shrine Club*:

In accordance with NCGS 75A-15, the Board of Commissioners of Rowan County requests the North Carolina Wildlife Resources Commission to promulgate special rules and regulations with reference to safe and reasonable operation of vessels on the waters of High Rock Lake located in said County, the pertinent substance of which proposed regulations is as follows: No wake zone signage/buoy located as may be appropriate in the vicinity of Rowan Shrine Club dock.

Chairman Ford opened the public hearing to entertain comments from any citizens wishing to address the Board. The following individual came forward:

- Sonny Miller, President of Rowan Shrine Club, thanked the Board for its consideration of the request. Mr. Miller said he would like to see a prevention measure implemented before a tragedy occurred. Mr. Miller said he supported the no wake zone in front of the Shrine Club's dock.

Chairman Ford asked if the Shrine Club was willing to pay in the range of \$400 to \$500 for the buoy if the request was approved. Mr. Miller said yes and added that he could only speak for himself. Mr. Miller felt the Board of Directors would also agree.

With no one else wishing to address the Board, Chairman Ford closed the public hearing.

Commissioner Barber moved approval of the Resolution to Establish No Wake Zone in Vicinity of Rowan Shrine Club. The motion was seconded by Commissioner Coltrain.

Commissioner Coltrain inquired as to whether a second buoy would be needed on the northern side of the property. Mr. Miller responded that he felt one buoy would be sufficient. Mr. Miller said the buoy was needed at the end of the road/driveway by the dock.

Commissioner Mitchell asked County Manager Gary Page if the Wildlife Resources Commission would advise the County as to where the buoy should be placed and Mr. Page said yes.

Upon being put to a vote, the motion on the floor passed unanimously. The resolution read as follows:

WHEREAS, under authority of North Carolina General Statutes Section 75A-15(a) any subdivision of the State of North Carolina may at any time, after public notice, make formal application to the Wildlife Resource Commission for special rules and regulations with reference to the safe and reasonable operation of vessels on any water within its territorial limits; and

WHEREAS, Rowan County has given public notice of its intention to make formal application to the Wildlife Resources Commission for special rules and regulations with reference to the safe and reasonable operation of vessels on High Rock Lake within the territorial limits of Rowan County, and for the implementation of the Uniform Waterway Marker System in all the waters of the County.

NOW, THEREFORE BE IT RESOLVED, that in accordance with NCGS 75A-15, the Board of Commissioners of Rowan County requests the North Carolina Wildlife Resources Commission to promulgate special rules and regulations with reference to safe and reasonable operation of vessels on the waters of High Rock Lake located in said County, the pertinent substance of which proposed regulations is as follows: No wake zone signage/buoy located as may be appropriate in the vicinity of Rowan Shrine Club dock.

BE IT FURTHER RESOLVED, that the said Board of Commissioners requests the said Commission to promulgate regulations fully implementing the Uniform Waterway Marker System in all of the waters of the said County.

## **5. PUBLIC HEARING FOR PCUR 02-10**

Chairman Ford read the Chairman's Speech (Exhibit A) and declared the public hearing for PCUR 02-10 to be in session. Chairman Ford said the hearing would focus on an application submitted by R & M Enterprises for property located at 7115 Hwy 152 East. The purpose of the application was to rezone a ½-acre parcel from Rural Agricultural (RA) to Commercial Business Industrial (CBI) with a conditional use district (CUD) to accommodate a variety store on Tax Parcel 360-162.

The Clerk swore in those wishing to provide testimony in the case.

Senior Planner Shane Stewart presented the Staff Report (Exhibit B) and provided a power point presentation (Exhibit C) to depict the site and surrounding area. Mr. Stewart said the rezoning was for a ½-acre parcel located in the 7100 block of Hwy 152 East in Rockwell.

Mr. Stewart explained that approximately 15 years ago, Max Holshouser received approval for a minor subdivision establishing a .87 acre parcel, which was isolated from his remaining 39 acres on the north side of Highway 152. Mr. Stewart said 3 weeks later, Robert Allen purchased this parcel containing a 1100 square foot building located at 7115 Highway 152 East in Rockwell. The property contained a non-conforming automobile sales lot, which operated until early 2005 prior to the property being foreclosed by F&M Bank at the end of the year. In early 2006, Gwen Chubirko with Genesis Realty requested a zoning change from RA to CBI-CUD to allow all retail activity (except eating and drinking establishments) and 4 different types of service uses.

Mr. Stewart said the Board had offered Ms. Chubirko the option of withdrawing the request in favor of consideration of a Special Use Permit (SUP), which would have allowed the Board to approve transferring the non-conforming status from the automobile sales lot to another use of equal or less intensity. Ms. Chubirko withdrew her request but did not file a subsequent SUP request. Mr. Stewart said a non-conforming use left vacant for 360 days shall only be re-established as a conforming use.

Mr. Stewart said Jackie Misenheimer purchased the foreclosure from F&M Bank in 2007 and had received interest from the current applicant, Richard Smith, to purchase the property if the requested change from RA to CBI-CUD was approved. Mr. Smith proposed to operate a retail establishment offering a variety of new and used items including outdoor display within the existing fenced area. Mr. Stewart used the power point (Exhibit C) to depict the site and surrounding areas.

Mr. Stewart said the Statements of Reasonableness and Consistency were listed in the Staff Report (Exhibit B) and he also stated that the Planning Board had unanimously recommended approval of the request.

Mr. Stewart said Staff had received one call regarding the request and the individual had not been opposed.

Mr. Stewart distributed sample Findings of Fact (Exhibit D) for the Board's consideration.

The petitioner, Debbie Miller from Rowan Realty, said she represented Richard Smith regarding the purchase of the property. Ms. Miller said the applicant had considered having a residence on the property; however with the closeness to the highway he had not felt it was a good match.

With no one else wishing to provide testimony in the case, Chairman Ford closed the public hearing.

Commissioner Mitchell moved approval of the proposed Statements of Reasonableness and Consistency as listed on page 5 of the Staff Report (Exhibit B). The motion was seconded by Commissioner Barber and passed unanimously.

The Statement of Reasonableness read as follows:

- It would appear the size of the property/structure is not a problem for this use.
- There would be little impact on the surrounding area.
- The relationship of the use would be similar to the previous use.

The Statement of Consistency read as follows:

- The use is consistent with the properties in the area and previous use.

Commissioner Mitchell moved:

1. The development of the property in accordance with the proposed conditions will not materially endanger the public health or safety.

FACT: Adhering to the approved NCDOT commercial driveway permit suggests this site will provide safe access to the general public.

FACT: Compliance with applicable building code standards for a change of use should ensure the sixty-year-old structure would not pose a safety hazard to the general public.

The motion was seconded by Commissioner Barber and passed unanimously.

Commissioner Mitchell moved:

2. That the development of the property in accordance with the proposed conditions will not substantially injure the value of adjoining or abutting property, or that the development is a public necessity, and;

FACT: No material evidence was presented suggesting this request would injure property values.

The motion was seconded by Commissioner Barber and passed unanimously.

Commissioner Mitchell moved:

3. That the location and character of the development in accordance with the proposed conditions will be in general harmony with the area in which it is located and in general conformity with any adopted county plans.

FACT: With the exception of the business owner living on the property, this retail establishment meets the special requirements for locating in the RA district making this request only a slight deviation from the current list of permitted uses.

FACT: Since 1950, this site has featured multiple retail operations, which pre-dated the construction of the majority of surrounding residences.

FACT: The character of the area should not experience considerable change by simply adding product display to a site containing an existing building that could remain in its current state regardless of the zone.

FACT: The CBI zoning district's purpose and intent contains provisions for establishing this district in rural locations lacking the typical locational characteristics of a general business zone if the overall public good is served. The surrounding community rendered no opposition at either the Planning Board or Board of Commissioners' meeting to the requested property use and zone change.

The motion was seconded by Commissioner Barber and passed unanimously.

Commissioner Mitchell moved approval of PCUR 02-10. The motion was seconded by Commissioner Barber and passed unanimously.

## **6. REPORTS**

The following reports were submitted for the Board's consideration:

- (a) County Manager's Monthly Activity Report
- (b) Child Abuse Prevention Annual Report



Commissioner Mitchell moved to accept the County Manger's Monthly Activity Report. The motion was seconded by Commissioner Barber and passed unanimously.

Commissioner Mitchell moved, Commissioner Coltrain seconded and the vote to approve the Child Abuse Prevention Annual Report passed unanimously.

**ADJOURNMENT**

There being no further business to come before the Board, Commissioner Barber moved to adjourn at 7:26 pm. The motion was seconded by Commissioner Coltrain and passed unanimously.

Respectfully Submitted,

Carolyn Athey, CMC, NCCCC  
Clerk to the Board/Assistant to the County Manager